

WANDA OVALLES, ET AL. vs. SONY ELECTRONICS INC., ET AL.

04/23/2015

Julio Posse

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF RHODE ISLAND
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4 WANDA OVALLES, INDIVIDUALLY AND)
5 P.P.A.A. OVALLES AND WILSON) Civil Action No.
6 OVALLES,) 14-137M
7 Plaintiffs,)
8 VS)
9 SONY ELECTRONICS INC.; BEST BUY)
10 CO., INC.; FOXCONN)
11 INTERNATIONAL, INC.; AND JOHN)
12 DOE CORPORATIONS 1-4,,)
13 Defendants.)
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23 DEPOSITION OF: Julio Posse
24 DATE: April 23, 2015
25 HELD AT: Shipman & Goodwin LLP
One Constitution Plaza
Hartford, Connecticut

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1 Q That's because it shoots out the end?

2 A Correct.

3 Q And when it shoots out the end, what's the
4 word you use to describe that phenomenon?

5 A Venting.

6 Q Oh, venting. And when it vents, does it vent
7 expelling superheated fire.

8 A Superheated fire?

9 Q What's the temperature when it vents?

10 A I would say it's over 2000 degrees.

11 Q And what is it that vents?

12 A The gas from the electrolyte becoming,
13 because the rise in temperature will become gas, and
14 that will expel.

15 Q What else comes out besides gas? At 2000
16 degrees --

17 A You might have --

18 Q -- does copper or aluminum melt?

19 A Yes, you might have particles. Sorry.

20 Q And when the gas ignites, within the gas are
21 these other metals, correct?

22 A Correct.

23 Q Every lithium ion battery consists at that
24 point of gas and metals?

25 MR. HAFNER: Objection to form.

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1 A Yes.

2 BY MR. BERGENN:

3 Q And when that gas ignites to 2000 degrees,
4 those metals vent with the gas, don't they?

5 A It's possible, yes.

6 Q Generally that's what happens?

7 A Yes.

8 Q When it doesn't happen, that would be an
9 exception, correct?

10 A The depends on the event, how the event
11 occurs inside the cell, what the short circuit is, and
12 the intensity of the current path.

13 Q Okay. But generally speaking, when a cell
14 vents at 2000 degrees, it expels the gas and the
15 liquid metal, correct?

16 A Yes, generally.

17 Q And that means liquid metal is being
18 propelled outside the battery at that point, correct?

19 MR. HAFNER: Objection to form.

20 A Maybe, maybe not.

21 BY MR. BERGENN:

22 Q Right. Generally speaking. I can't cover
23 every single one here, but generally speaking when
24 you've got 2000 degree ignited gas, and it is
25 surrounding metal that has a temperature of being

1 liquefied substantially below 2000 degrees, correct?

2 A Correct.

3 Q So generally speaking when those things
4 ignite, they expel liquid metal?

5 A Well, again, it depends on the situation. If
6 you have a cell here and another cell in a series with
7 that in place immediately adjacent to that, that is
8 going to contain expulsion of gases.

9 Q Right. So when the gas expels with the metal
10 and there is no next cell, or there is no, I guess,
11 boundary, there is no intervening metal, that's going
12 to shoot out, correct?

13 A If you consider the cell by itself in the
14 surface, yes, I would agree with that.

15 Q Okay. So how is it that lithium ion cells
16 sometimes have that experience? What causes that?

17 A To my knowledge what could cause that
18 experience is a short circuit inside the cell when the
19 separator is perforated by a particle that has been
20 introduced, and that could be the cause, or an
21 internal short circuit in case of some cells that are
22 not manufactured to the correct standard.

23 Q And that's very rare, correct, when that
24 happens. That's not a common phenomenon. It's not
25 like a certain percentage of lithium ion cells are

1 Q Is it your testimony that there has never
2 been a Sony cell or battery that had a defect?

3 A I didn't say that.

4 Q I'm asking you.

5 A No.

6 Q Is it your testimony that there have been
7 Sony cells and batteries with defects?

8 A Yes.

9 Q Can you describe the defects with which you
10 are familiar?

11 A My understanding is that, and that's the
12 reason for the recall in 2006, that there were some
13 cells in which particles were introduced during the
14 manufacturing process, and that could be considered a
15 defect.

16 Q And why? Why is that a defect to have
17 particles introduced during the manufacturing?

18 A If the particles are over a certain size,
19 they can perforate the separator and cause a short
20 circuit internal to the battery.

21 Q And what happens if that happens?

22 A It depends where the particle is located.

23 Q Right. And describe the range of things that
24 have happened when particles have been introduced
25 during their manufacture?

1 A Well, it could be something just from a
2 failure, the cell stopped to work, and it could be
3 something as to venting. If the particle is in the
4 right location, it could be venting.

5 Q And how is it that the particle results in
6 venting?

7 A Because it perforates the separator, and it
8 produces a short circuit.

9 Q And when it produces a short circuit, why
10 does that result sometimes in venting?

11 A Because it generates internal heat, and there
12 could be, the short circuit could increase in size
13 given the hole in the separator, could increase in
14 size. The separator is typically itself healing, but
15 if the particle exceeds certain size, it won't
16 self-heal, and it will cause enough heat, the short
17 circuit will cause enough heat to have the cell vent.

18 Q And that has happened before?

19 A Yes.

20 Q And that happened enough times to result in a
21 recall?

22 A Yes.

23 Q And when was it that you first learned that
24 that happened?

25 A I heard about it -- I don't know the exact

1 was putting products out in the market, and those
2 products were defective, and you had no idea, correct?

3 MR. HAFNER: Objection to form.

4 A There have been, yeah, there might be some
5 products that were defective, but not millions as you
6 stated.

7 BY MR. BERGENN:

8 Q No, no. Do you have any idea -- well, first
9 of all -- withdrawn.

10 The products that were recalled were recalled
11 from consumers in the United States of America,
12 correct?

13 A Yes. Throughout the world, actually.

14 Q Yes, there were. And you don't know how
15 many, or do you?

16 A I don't recall the number exactly.

17 Q Do you have any idea? Was it one, was it
18 ten, was it a thousand, was it a million?

19 A I think there was around 300,000.

20 Q So let's assume, and subject to whatever the
21 documents tell us, let's assume that there was
22 approximately 300,000 Sony consumer products in
23 America, some of which had defective batteries,
24 correct?

25 A Correct.

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1 notice for today's deposition. You remember seeing
2 this before, right?

3 A Yes.

4 Q And it's got -- it shows there in the notice
5 that it's asking SEL to designate someone who must
6 testify about information known or reasonably
7 available to SEL, right?

8 A Yes.

9 Q Now, some of the information that is known or
10 reasonably available is actually over in Japan,
11 correct?

12 MR. HAFNER: Objection to form.

13 A Available to SEL? If it's in Japan, it's not
14 available to SEL.

15 BY MR. BERGENN:

16 Q Oh, so, for example, when we talked about the
17 recall, and the recall was of Sony cells in say
18 300,000 or so consumer products that had Sony cells,
19 correct?

20 A Correct.

21 Q Lithium ion batteries that were defective and
22 resulted in fires, correct?

23 A Correct.

24 Q And that, when that -- you don't have any of
25 the documentation associated with that other than a

1 notice to the CPSC?

2 A I do not have a notice to the CPSC.

3 Q You don't even have that?

4 A Right.

5 Q But all of that information would be in

6 Japan?

7 A Correct.

8 Q And when you say reasonably available, you
9 know that since you've gone over there and you spent
10 weeks there over the last 15, 20 years, if you wanted
11 to, you would be able to ask for the documents,
12 correct?

13 MR. HAFNER: Objection to form.

14 A Yes, I would be able to ask. Now, would I
15 get them, that's a different story.

16 BY MR. BERGENN:

17 Q So is it your understanding that there are no
18 documents relating to the manufacturing problems and
19 the steps that were taken to overcome the
20 manufacturing problems and the various fires and the
21 various issues they had with those 300,000 products
22 and products elsewhere, none of that information is
23 available to SEL to your knowledge?

24 A Correct.

25 Q Now, the 300,000 products that were in the

1 MR. HAFNER: I already objected to the
2 form.

3 BY MR. BERGENN:

4 Q You may answer.

5 A I don't know what they knew or didn't know.

6 Q Okay. You didn't tell SEL -- withdrawn.

7 Everything you said here under oath is true,
8 that you actually have no knowledge about the product
9 safety issues for the tens of millions of dollars of
10 products that were recalled by the CPSC for Sony
11 products with lithium ion batteries, correct?

12 MR. HAFNER: Objection to form.

13 Mischaracterizes his testimony. He told you what
14 his understanding of the issue was earlier today.

15 A Correct, and also you mischaracterized --

16 BY MR. BERGENN:

17 Q You have to answer my question. Responding
18 to your counsel is not the way this proceeds. So
19 answer the question.

20 A Number one, the recall was not issued by the
21 CPSC, the recall was issued by Sony.

22 Q Thank you.

23 A What was the other part of the question?

24 Q Well, let's start over. When Sony recalled

25 the thousands and thousands of Sony lithium ion

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1 battery products back in 2006 --

2 A Yes.

3 Q -- when that happened, SEL, through its
4 designated person with information known to SEL, who
5 is the director of corporate product safety, knows
6 nothing about the incidents, and the causes, and the
7 corrections other than what you've reported here
8 today?

9 A Correct. At that point in time of this I
10 have no knowledge.

11 Q And at this point in time the only knowledge
12 you have is an oral conversation when you took a trip
13 there for a week a couple of years later?

14 A Correct.

15 Q And the way you understand SEL to structure
16 itself, it structures itself so that when at a
17 deposition people are asking about Sony's knowledge,
18 and asking about dangers of lithium ion batteries,
19 they would have nobody to your knowledge that would
20 know about the dangers that I've just discussed?

21 MR. HAFNER: Objection to form.

22 A I don't know how Sony structures themselves
23 for that, but all I can say is reiterate the answer
24 before, at that point in time I did not have knowledge
25 of what the issue was, and then I learned it through

1 that conversation.

2 BY MR. BERGENN:

3 Q Right. But as you sit here today, you do
4 know of no one in SEL who is capable of providing
5 information regarding those thousands of products that
6 were recalled?

7 A That's correct.

8 Q And that if the court wanted to have that
9 information available to determine the extent to which
10 we can learn about the risks and the steps taken to
11 prevent the risks, they're going to have to get
12 someone from Japan?

13 A If it's available at the moment, yes, maybe,
14 he or she.

15 Q Because you have no knowledge as to even
16 whether they kept it over there, right?

17 A Correct.

18 Q Now, there were no other product safety group
19 descriptions other than the one that you provided us,
20 right?

21 A Correct.

22 Q And are there descriptions for your
23 subordinates?

24 MR. HAFNER: Are you done with that?

25 THE WITNESS: Not really.

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